

Dion L. Johnson
Reg # 88889-011
Federal Detention Center Dublin
5675 8TH Street Camp Parks
Dublin, Calif 94568

FILED
07 AUG 29 AM 11:22
RICHARD W. BUEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

530
New
[Signature]

In Pro Se

In The United States District Court
For The Northern District of California
(Oakland)

Dion L. Johnson

E-filing

Petitioner

VS.

Paul Copenhagen, et al.

Respondent(s)

Civil No#

SBA

C 07 4467 (PR)

Motion To Reverse
Conviction Pursuant
To 28 U.S.C § 2241
Or 2255

1. Name and location of court which entered the judgment
of conviction under attack U.S. District Court, Northern
District of California, San Francisco

2. Date of judgment of conviction November 17, 2005

3. Length of sentence 90 mos

4. Nature of offense involved (all counts) Robbery 3A
and 4A

5. What was your plea? (Check one)

- (a) Not guilty ☐
(b) Guilty ☒
(c) Nolo contendere ☐

007-4467-011

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§ 107:1

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: _____

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☐ N/A

(b) Judge only ☐

7. Did you testify at the trial?

Yes ☐ No ☐ N/A

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☒

9. If you did appeal, answer the following: N/A

(a) Name of court _____

(b) Result _____

(c) Date of result _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information: N/A

(a) (1) Name of court N/A

(2) Nature of proceeding NONE

(3) Grounds raised NONE

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result N/A

(6) Date of result N/A

(b) As to any second petition, application or motion give the same information:

- (1) Name of court N/A
- (2) Nature of proceeding N/A
- (3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result N/A

(6) Date of result N/A

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒ N/A

(2) Second petition, etc. Yes ☐ No ☒ N/A

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

After the plea, Counsel refused to file any motion or petition on my behalf stating that I have waived those rights. Petitioner is a layman (not a lawyer) and plead guilty to a crime he did not commit on the advice of Counsel. Johnson contends that his constitutional rights to effective counsel assistance as guaranteed by the United States Constitution was violated. Defendant states the issues he will raise can be supported by District Records...

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all ground in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most

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frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: _____

Supporting FACTS (state briefly without citing cases or law) _____

See Attached Page 1 as ground #1

B. Ground two: See 19.2 grounds

Supporting FACTS (state *briefly* without citing cases or law): _____

C. Ground three: _____

Supporting FACTS (state *briefly* without citing cases or law): _____

D. Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law): _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

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- (a) At preliminary hearing _____
- (b) At arraignment and plea _____
- (c) At trial _____
- (d) At sentencing _____
- (e) On appeal _____
- (f) In any post-conviction proceeding _____
- (g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.



Signature of Attorney (if any)

Pg. 1 ground 1.

Counsel was ineffective for having/advising Johnsons to plead to A crime he didnt commit; on an indictment that was based on false, erroneous information, which Counsel knew was false before plea.

Further, Counsel was ineffective for failing to move for dismissal of the indictment, and for failing to file Prosecutor Misconduct, after investigating and finding out the information was in fact false, when the prosecutor used the information in an affidavit to obtain A search warrant for evidence to be used in case...

Counsel was ineffective for not informing Johnson that he could not be convicted on an indictment based on false information, evidence secured from A search warrant based on false information.

Had Johnson been fully informed of his rights, and, facts of the case, he would never had plead guilty. (see attached)

Pg. 2, ground 2.

Counsel was ineffective for failing to move for dismissal of the indictment that was returned by the grand jury based on false, erroneous information.

The AUSA used the information to get the indictment, after obtaining the indictment, the AUSA learned the information was false, amended F.B.I. reports, statements, removed, replaced agents and/or detectives on the case.

However, this did not cure the indictments defect, Johnson's rights, had already been violated, and this error was compounded by the AUSA's failure to dismiss the defective indictment and re-indict based on the new information...

Once Counsel investigated, and learned that the information was in fact false, proving that Johnson was being held on a defective indictment, and his rights had been violated, Counsel should have moved for its dismissal...

g.3. ground 3.

Counsel was ineffective for failing to move for a suppression of the search warrant, and dismissal of the indictment, based on prosecuter misconduct.

As stated, the A.U.S.A. learned that the information, thus evidence presented to the grand jury, was in fact false and erroneous.

The A.U.S.A. amended the information and/or evidence (see 302^s) after the indictment was returned, but, proceeded on the defective indictment, knowing it was based on false evidence; illegale. The A.U.S.A. further committed misconduct, perjury, and violated Johnsons Constitutional rights by taking the information he knew for a fact to be false, after he investigated, corrected the reports, and replaced the F.B.I. agent, he still used this false information/evidence to secure a search warrant to obtain evidence to be used against Johnson at trial, or, to induce a plea---

Facts: the prosecuter committed misconduct, he obtained the indictment and the search warrant based on false information/evidence; and both must be dismissed as a matter of law---

B. 7 ground 4

Counsel rendered ineffective assistance of Counsel throughout the entire proceedings: (A) failed to move for dismissal of the indictment; (B) failed to move for suppression of the search warrant and evidence obtained from it; (C) failed to move for dismissal of the indictment and search warrant based on prosecutors obvious misconduct; (D) made a mockery out of representing Johnson when she induced him to plead to a crime he didn't commit, and she knew he didn't commit, because all the evidence & witness proved there was only one robber, and that person pled guilty to the robbery; there is no strategic, or tactical reasons for Counsel's acts and omission, Counsel's performance was deficient, and prejudiced Johnson. There can be no question, that having him plead guilty to a crime he didn't commit, and that someone else had already pled guilty and confessed to, fell below an objective standard of reasonableness, and but for Counsel's unprofessional errors Johnson would never have pled to a crime, a robbery he did not commit, and his conviction must be overturned...

Affidavit
In support of ineffective
assistance of Counsel claim

I, Dion H. Johnson, solemnly swear under the penalty of perjury, the foregoing is true & a fact according to the extent of my knowledge...

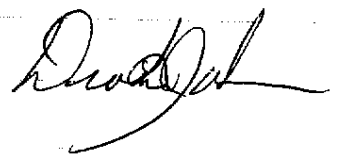
Counsel advised me that to challenge the defective indictment, and illegal search warrant would be frivolous, because Judge Hamilton would only review each document, make a few omissions, let the defective indictment stand, allow the evidence from the illegal warrant into trial, after slapping the prosecutor on the wrist;

Counsel advised that the prosecutor had a slam dunk case, the jury is gonna find me guilty on my criminal history alone, and it be sure to get 25, if not 30 yrs.

Based on the advise of Counsel pertaining to the defective indictment and illegal search warrant, I pled guilty to a crime I didn't commit, out of fear of getting 30 yrs, for a robbery I didn't commit, I couldn't understand why Counsel told me to plead to a robbery I didn't commit, when the person who committed the robbery already pled guilty to it, I tried to bring this to the Courts attention during the plea hearing. (see plea hearing transcripts)

If I could be of further assistance in shedding light on the facts of this case please contact me...

Executed on this 22nd day of August 2007



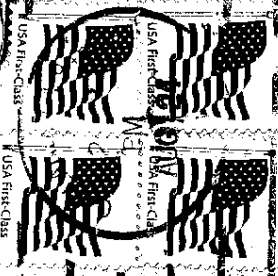
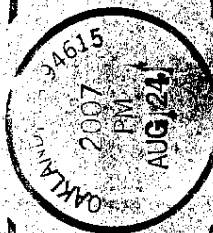
Affidavit
IN support of appointment of
Counsel

I, Dion H Johnson, under the penalty of perjury, solemnly swear, the foregoing is true to the best of my knowledge. I have no stocks, Bonds, Checking, or savings accounts, I own no property, houses, land, Boats, Cars, etc. My prison account balance as of 8-18-07, is \$207.000, I have no constant source of income. I receive money from siblings & love ones sparingly.

Dion Johnson

Executed on this 20th day of August 2017 in the
State of California, City of Dublin

Don't mention 8889-04
Federal Production Center
5675 8th Street PMB
Berkeley CA 94708



Att: Clerk of Court
United States District Court
Northern District of California
1361 Clay St.
Oakland California 94607

RECEIVED
AUG 27 2007
RICHARD W. VIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

Pro Se

